

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
LISA RENEE HOSEIN,) CASE NO. 08-20988 JPK
) Chapter 7
Debtor.)

ORDER CONCERNING MOTION TO SET ASIDE
ORDER OF DISMISSAL AND RE-OPEN CHAPTER 7 ("MOTION")

The Motion, filed on June 27, 2008, requests reconsideration of the Court's order dismissing the debtor's case entered on June 25, 2008. Unlike most motions of this nature, the Motion does designate the provisions under which it proceeds, i.e., Fed.R.Bankr.P. 9023/ Fed.R.Civ.P. 59. However, the Motion does not comply with N.D.Ind.L.B.R. B-9023-1(a), in that it is not accompanied by a legal memorandum.

First, there was no trial which resulted in dismissal of this case: rather, dismissal was effected pursuant to an affidavit of default filed by the Trustee with respect an agreed order entered into between the debtor and the Trustee. Thus, Fed.R.Civ.P. 59 has no application to the circumstances of this case. The Court notes that even if that rule were applicable, there is nothing in the Motion that satisfies any grounds stated in Fed.R.Civ.P. 59(a)(2).

The Motion appears to assert that the debtor became confused about the date of the § 341 meeting at which she had pledged herself to appear under the terms of the agreed order between the debtor and the Trustee. The terms of the order were clear, and it was the debtor's responsibility to comply with the terms of that order.

The Court finds that the Motion fails to state any grounds under Fed.R.Bankr.P. 9023/ Fed.R.Civ.P. 59 upon which relief may be granted. Moreover, were the Court to grant the debtor an opportunity to file a motion pursuant to Fed.R.Bankr.P. 9024/Fed.R.Civ.P. 60(b) the grounds stated in the Motion would not sustain the relief requested.

IT IS ORDERED that the Motion is denied.

Dated at Hammond, Indiana on July 10, 2008.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor, Trustee, US Trustee